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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Amendment of the Commission's
Rules to Establish New Personal
Communications Services

GEN Docket No. 90-314

TO: The Commission

COMMENTS OF CABLEVISION SYSTEMS CORPORATION
IN RESPONSE TO PCS PANEL DISCUSSIONS

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IN RESPONSE TO PCS PANEL DISCUSSIONS**

Cablevision Systems Corporation ("Cablevision"), by its attorneys, hereby submits its comments on certain topics raised during panel discussions held at the Federal Communications Commission with respect to the above-captioned rulemaking proceeding.^{1/}

INTRODUCTION AND SUMMARY

Cablevision agrees with the overwhelming consensus expressed at the Commission's panel discussions that time is of the essence in the development of PCS, and that the Commission should proceed with the licensing of PCS with all deliberate speed. It does not

^{1/} These comments were invited by Public Notice. "FCC to Host Panel Discussions on PCS Issues April 11-12" (released April 4, 1994).

follow from this, however, that the Commission does not have time to fix the fundamental flaw in the PCS licensing scheme adopted in its Second Report and Order^{2/} in this proceeding: its fragmented and misdirected channelization plan for the grant of PCS licenses. Cablevision believes that the many competing interests in formulating such a channelization plan are best balanced by revising the plan to provide for four 20 MHz license blocks in the 1.8 GHz band, with two such blocks licensed on a Major Trading Area (MTA) basis and two blocks licensed on a Basic Trading Area (BTA) basis. Such a plan would maximize both competition and flexibility in responding to market demand for personal communications services. On the other hand, retaining the current channelization plan is likely to result in medium-sized but highly innovative companies like Cablevision being largely shut out of PCS.

I. Based on Its Extensive Experience with PCS Technologies and Systems, Cablevision Believes that Four 20 MHz License Blocks Would Better Match the Needs of Economically Viable Personal Communications Services

Cablevision, both directly and through a number of subsidiaries and affiliated companies, is a leading provider of cable television service, with major cable systems in the northeastern and midwestern United States. Cablevision has been in the forefront of the development and implementation of two-way communications capabilities that could potentially be combined

^{2/} Amendment of the Commission's Rules to Establish New Personal Communications Services, Second Report and Order, 8 FCC Rcd. 7700 (1993) ("Second Report and Order").

synergistically with its current and planned cable television delivery facilities. As part of these efforts, in June 1989, Cablevision began to study in detail how wireless Personal Communications Services ("PCS") might be developed in innovative ways to take advantage of Cablevision's state-of-the-art cable television facilities. In September 1990, Cablevision filed requests for experimental authorizations to provide PCS services in the New York City, Boston, Chicago and Cleveland metropolitan areas. Cablevision has since operated under its experimental PCS licenses for over three years. Cablevision's initial tests focused on the transmission of high speed, complex digital signals with live cable plant, in order to demonstrate that cable plant currently in place could provide a suitable networking architecture and infrastructure for PCS. Following these initial tests, Cablevision turned its attention to experimentation with and development of the capabilities of distributed antenna technology to serve as the radio frequency link in a multimedia PCS service. Cablevision has substantially advanced the capabilities of pole and strand mounted distributed antenna technologies by conducting independent research, and funding research with other parties, to the point where Cablevision was the first to demonstrate carriage of PCS calls at vehicular speeds.

Based on its extensive experience with real world PCS technologies, as well as its equally extensive analysis of PCS service and network design and cost studies, Cablevision

initially concluded that 40 MHz spectrum blocks were necessary to permit the rapid and efficient rollout of PCS services. This conclusion, however, was premised on the Commission's policies with respect to the relocation of incumbent microwave users as articulated at that time.^{3/} These policies permitted extended time frames for forced relocation of non-government users, and permanent grandfathering of public safety users. In light of these constraints, Cablevision believed that 40 MHz blocks were necessary in order to permit PCS licensees to engineer systems with 20 MHz of clear spectrum in many important markets. In its Second Report and Order, the Commission also recognized that 20 MHz blocks should be sufficient to allow engineering of workable PCS systems, but decided to also adopt 30 MHz blocks in light of significant congestion resulting from the presence of microwave users.^{4/}

The FCC has now fundamentally altered the basic premises underlying the channelization plan adopted in the Second Report and Order by providing for the forced relocation of all incumbent microwave users, including public safety users.^{5/} In light of this, Cablevision believes that it is incumbent upon the

^{3/} See Comments of Cablevision Systems Corporation in Gen. Docket 90-314 at 6-7 (filed November 9, 1992); Reply Comments of Cablevision Systems Corporation in Gen. Docket 90-314 at 2-5 (filed January 8, 1993).

^{4/} Second Report and Order, 8 FCC Rcd. at 7726-27.

^{5/} Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, Memorandum Opinion and Order, FCC No. 94-60 (released March 31, 1994).

Commission to modify its channelization plan to reduce the basic frequency blocks to 20 MHz. With wholesale relocation of microwave users now permitted, Cablevision agrees with the many parties who predicted at the panel discussions that 20 MHz blocks should be sufficient for economically viable PCS services.^{6/} Moreover, Cablevision agrees with those parties who indicated that 30 MHz of spectrum would be excessive for smaller markets and during early rollout phases, and may also encourage the deployment of spectrally inefficient technology.

Cablevision recognizes that even with the revisions of the microwave relocation procedures, there may be a transition period before PCS licensees are able to obtain completely clear spectrum. Given the timetable specified for forced relocation, Cablevision submits, however, that a permanent channelization plan should not be premised on the need to minimize short term transitional difficulties. This conclusion is reinforced by the added benefits of Cablevision's proposed revision of the Commission's channelization plan as set forth in Section II. Moreover, since Cablevision supports retention of rules permitting parties to aggregate spectrum blocks up to 40 MHz, parties who perceive a compelling necessity to acquire larger frequency blocks to address these short term transitional difficulties will be permitted to express these preferences, and

^{6/} See Written Statement of Dr. C.J. Waylan, GTE Personal Communications Services at 6; Comments of John Oxendine, BROADCASTCAP at 3; Statement of Charles L. Jackson, Strategic Policy Research at 3; Statement of Dr. Erwin M. Jacob, Qualcomm, Inc. at 2.

pay the additional costs associated with larger frequency blocks, at auction.

II. Provision for Four 20 MHz 1.8 GHz Frequency Blocks Will Maximise Flexibility and Competition in Mobile Communications Markets

The Commission's current channelization plan provides for two 30 MHz MTA licenses, one 20 MHz BTA license reserved for "Designated Entities," and four 10 MHz BTA blocks in the 2.1 GHz band, where little if any technology is available. While this plan was adopted in order to maximize flexibility, in fact, a party, other than a Designated Entity, seeking to provide PCS service faces a stark choice: either buy a 30 MHz MTA, or buy spectrum in a largely untested, and highly congested,⁷¹ frequency band.

This choice is extraordinarily unattractive. 30 MHz MTA licenses, given the size of the spectrum block and the lack of viable alternative blocks, are likely to attract the most intense bidding and, by all estimates, be extremely expensive in attractive markets. Cablevision expects that the bidding will be dominated by a very small number of huge, very well financed companies, such as the Regional Bell companies and AT&T. Moreover, since Cablevision believes that it can engineer an economically viable PCS system in 20 MHz, even if Cablevision could somehow finance a bid for a 30 MHz MTA license, it would be

⁷¹ See Testimony of Jeffrey Rosenblatt, Comsearch, April 12, 1994 Transcript at 73, 89.

forced to buy an additional 10 MHz of spectrum which it neither needs or wants. On the other hand, under Cablevision's proposed alternative of two 20 MHz MTA and two 20 MHz BTA licenses, Cablevision could buy exactly the spectrum it believes it needs. Again, this proposal would not limit the ability of parties perceiving the need for greater spectrum to buy it in the marketplace, since such parties could bid at auction for up to two 20 MHz blocks.

Cablevision's proposal would also permit greater flexibility to accomodate individual preferences with respect to geographic scope of PCS operations. The current channelization scheme overly emphasizes regional, i.e., MTA-based, scope of operations. Only designated entities have access to BTA-sized blocks in the far more attractive 1.8 GHz band. Cablevision, on the other hand, has identified a number of attractive BTA markets in which it believes it could operate economically successful PCS systems using 20 MHz.^{8/} Yet Cablevision simply cannot bid on this basis, unless it is willing to be relegated to the 2.1 GHz band.

If, in contrast, two 20 MHz BTA licenses are put out for auction, Cablevision could bid for these markets. Again, if auctions are properly structured, parties placing a higher value on regional operations could bid not only for the 20 MHz MTA licenses, but could also bid for aggregated BTA licenses. In

^{8/} See also Written Statement of Andrew Roscoe, MTA-EMCI, "Demand Characteristics of New PCS" at 11 ("Many 20 MHz BTA licenses appear to be viable as a stand-alone high mobility PCS business particularly in the large urban markets.").

short, unlike the present scheme, no options would be foreclosed ab initio, while parties placing the highest value on different configurations would be allowed to win at auction.

Cablevision's analysis of potential bids by parties seeking to serve the New York Metropolitan area, where Cablevision has a substantial cable presence, illustrate the extreme consequences of the Commission's current channelization plan. Since Cablevision is not a Designated Entity, and has no interest at this time in the 2.1 GHz band, in order to serve the New York metropolitan area, Cablevision must bid for a 30 MHz New York/New Jersey MTA license. By one widely-circulated estimate, the price of such a license at auction will be in the vicinity of \$800 million. This reflects the fact that, due to the grant of a pioneer preference for this MTA to Omnipoint, only one such MTA license is available for bid. Thus, this figure reflects a premium price due to scarcity of about \$30 per pop, with 27 million pops in the MTA.

If, on the other hand, Cablevision were permitted to bid for a 20 MHz New York/New Jersey BTA, license, and there were other alternative licenses available to non-Designated Entities, Cablevision believes that it could realistically expect to pay \$20 per pop for the 18 million pops in the New York/New Jersey BTA, translating into a total bid of \$360 million. Aside from the fact that this is a far more economically realistic bid for a company like Cablevision, this alternative scenario much more precisely matches Cablevision's business plans, which focus on

the areas most closely proximate to the New York metropolitan area, rather than the excess geographic areas associated with the far larger New York/New Jersey MTA.

Cablevision's proposal would also maximize competition. Since Cablevision believes that 20 MHz PCS systems are entirely viable, this proposal could virtually guarantee four viable competitors in the most usable frequency band.

Finally, Cablevision's proposed structure would give the Commission maximum leeway to retain the 20 MHz BTA set-aside for Designated Entities, which Cablevision fully supports in principle. Cablevision believes that it will be very difficult for the Commission to justify limiting access to 20 MHz BTA licenses to Designated Entities, if the only viable alternative to this frequency block is the purchase of prohibitively expensive 30 MHz MTA licenses. Such extreme bifurcation is simply unfair. Realistic and economically viable participation in PCS cannot and should not be limited to the huge and wealthy, and Designated Entities, no matter how deserving. Perhaps most importantly, Cablevision firmly believes that the harm to the public interest from foreclosing participation by medium-sized, highly innovative companies such as Cablevision will be incalculable.


CONCLUSION

For the foregoing reasons, Cablevision respectfully requests that the Commission modify its PCS channelization plan to provide for two 20 MHz MTA and two 20 MHz BTA frequency blocks in the 1.8 GHz band.

Respectfully submitted,

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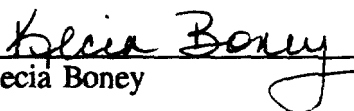
Date: April 22, 1994

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CERTIFICATE OF SERVICE

I, Kecia Boney, hereby certify that on this 22nd day of April, 1994, I have caused copies of the foregoing Comments of Cablevision Systems Corporation in Response to PCS Panel Discussions to be sent to the following by first-class United States Mail, postage prepaid:

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